First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Lax-Kw'alaams First Nation

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MINISTRY OF ENVIRONMENT, LANDS and PARKS
WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Lax Kw'alaams First Nation

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Gary Robinson
Project Manager
Water Management Branch

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FIRST NATION WATER RIGHTS REPORT

BAND: Lax Kw'alaams

ADDRESS: 206 Shashaak St., Port Simpson, BC V0V 1H0

CHIEF: James Bryant

PHONE: 625-3293 **FAX:** 625-3246

AFFILIATION: Tsimshian Tribal Council

LOCATION:

The Lax Kw'alaams Band occupies seventy-two (72) reserves located on the west coast of BC, in an area between Prince Rupert and Terrace. The reserves range in size from 1.1 to 177.6 hectares and include the following:

Alastair 80
Alastair 81
Alastair 82
Alder Creek 70
Bill Lake 37
Birnie Island 18
Burnt Cliff Islands 20
Carm Creek 38
Channel Islands 33
Dundas Island 32B
Dzagayap 73
Dzagayap 74
Ensheshese 13
Ensheshese 53
Far West Point 34
Finlayson Island 19
Gitandoiks 75
Gitandoiks 76
Iakgwas 69
Iakvas 68
Iakwulgyiyaps 78
Imukusiyan 65
Kasika 36
Kasika 71
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Kaskiks River 29
Kateen River 39
Ketai 28
Khutzemateen 49
Klakelse 86
Knamadeek 52
Knames 45
Knames 46
Knokmolks 67
Ksabasn 50
Ksadagamks 43
Ksadsks 44
Ksagwisgwas 62
Ksagwisgwas 63
Ksames 85
Kstus 83
Kstus 84
Ktamgaodzen 51
Kyex 64
Lachmach 16
Lakgeas 87
Maganktoon 56
Maklaksadagmaks 41
Maklaksadagmaks 42
Me-yan-law 47
Meyanlow 58
Ndakdolk 54
Nishanocknawnak 35
Pitt Island 27
Port Simpson 1
Prince Leboo Island 32
Psacelay 77
Red Bluff 88
Salvus 26
Scuttsap 11A
Spanaknok 57
Spakels 17
Spayaks 60
Spokwan 48
Toon 15
Tsemknawalqan 79
Tsimpsean 2 (north part)
Tymgowzan 12
Union Bay 31
Wilskaskammel 14
Wudzimagon 61
Zayas Island 32A

Of the seventy-two reserves, evidence indicates that a history of water rights exists for the following:

- Port Simpson No. 1: a 27.3 hectare reserve located on the northwestern coast of the Tsimpsean Peninsula. A portion of the reserve is situated on a small island that is positioned directly between Port Simpson and Cunningham Passage.

- Tsimpsean No. 2 (north part): located on the west coast of the Tsimpsean Peninsula, directly south of Port Simpson Reserve No. 1.

The most recent population figures compiled by the Ministry of Finance report that the Lax Kw'alaams Bands' total population, including registered and non-registered members living on- and off-reserve, is 2,419.

The Lax Kw'alaams reserves are located on the Coast Mountain Range, at elevations ranging from 200 to 1,300 metres above mean sea level. The reserves experience a climate in which average daily temperatures range from lows -5 degrees centigrade in January, to highs of less than 16 degrees centigrade in July. Average rainfall for the area totals in excess of 250 centimeters, annually.

Viewed in terms of water rights, the only water course of significance, is referred to as Stumaun Creek. The creek flows northwest through the northeastern corner of Tsimpsean Reserve No. 2 (north part), before it discharges into Stumaun Bay.

WATER ALLOCATIONS:

There are no records of Orders of the Board of Investigation, or actions to amend, cancel or record as abandoned licensed rights pursuant to provisions in the *Water Act*, with respect to the Lax Kw'alaams Band. The water rights of the Band have been determined by three actions of government over the years.

1) Allotments by Indian Reserve Commissioners.

   Following confederation, the Province and the Dominion established an Indian Reserve Commission to reserve lands for the Indians. The Commissioners were responsible for facilitating the transfer of the lands to the Dominion authority. In setting apart lands for reserves, the Reserve Commissioners made it their practice to allot water with the lands. This practice was unique among Indian Reserves in Canada and the authority of these Commissioners to allot water rights has always been disputed by the Province.

2) President of Executive Council approval by Order-in-Council granting water rights.

3) Granting of water licenses in response to Federal Government applications requesting authorization for the use of water on reserve lands.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights, and notes for the Lax Kw'alaams Band with respect to Port Simpson Reserve No. 1 and Tsimpsean Reserve No. 2 are as follows:

Port Simpson No. 1

Stumaun Creek

History:

Oct 29, 1881 A Minute of Decision of the Indian Reserve Commission allocated the following for the use of the Lax Kw'alaams Band, on a 100 acre reserve described as being situated at Fort Simpson:

> *"The water flowing naturally through the reserve is assigned the use of the Indians."*

*Note: From the description provided the reserve referenced appears to be Port Simpson Reserve No. 1.

Feb 26, 1884 An amended Minute of Decision of the Indian Reserve Commission allocated the following for the use of the Lax Kw'alaams Band on a 41 acre reserve described as being situated at Fort Simpson:

> *"The water flowing naturally through the reserve is assigned the use of the Indians."*

Feb 29, 1884 The President of Executive Council, on the recommendation of the Assistant Commissioner of Lands & Works, ordered that for Tsimpsean Reserve No. 1:

> *"All water flowing naturally through the reserve is assigned to the use of the Indians."*

*Note: Tsimpsean Reserve No. 1 is now known as Port Simpson Reserve No. 1.

Aug 2, 1977 In accordance with an application made by the Port Simpson Band Council, the Comptroller of Water Rights issued two licenses:

i. Conditional Water License 46483: The license has a precedence date of June 25, 1971 and authorizes the diversion of 375,000 gallons of water per day, year round from Stumaun Creek, for waterworks purpose. The appurtenant lands are described as Port Simpson Reserve No. 1.

ii. Conditional Water License 46484: The license has a precedence date of June 25, 1971 and authorizes the storage of 5.52 acre feet per year from Stumaun Creek for waterworks purposes. The appurtenant lands are specified as Port Simpson Reserve No. 1.

In connection with Conditional Water License No. 46483 Permit Over Crown Lands 11136 was granted to the Lax Kw'alaams Band. This permit authorized occupation of Crown Land for the construction and maintenance of works.

Jul 15, 1987 In accordance with an application made by the Lax Kw'alaams Band Council and the Department of Indian Affairs and Northern Development, the Comptroller of Water Rights issued Conditional Water License 65481. The license was assigned a precedence date of December 12, 1984 and authorizes the storage of 134 acre feet per year from Stumaun Creek for waterworks purposes. The appurtenant lands are defined as Port Simpson Reserve No. 1.

Current Status:

There are currently three licenses active on Stumaun Creek, all of which are held by the Lax Kw'alaams Band.

The Lax Kw'alaams Band holds Conditional Water License No's. 48683, 46484 and 65481. The licenses are first, second and third in priority on Stumaun Creek, respectively.

The Water Survey of Canada has no records of streamflow on Stumaun Creek. No other current sources of water availability information were located during this review.

An Engineer's Report, dated June 30, 1987, noted that there are potential low flow problems with respect to Stumaun Creek.

Notes:

1. The amended Minutes of Decision reduced the amount of reserve land on Port Simpson No. 1 from 100 acres to 41 acres.

2. The Lax Kw'alaams Bands' right to water on Stumaun Creek as allocated by the Indian Reserve Commission, has not been formally recognized by the Province.

3. Conditional Water License No's. 46484, 46484 and 65481 are currently licensed for waterworks purpose. As such, the licenses qualify the Stumaun Creek drainage area for designation as a Community Watershed under provisions contained in the Forest Practices Code.

Tsimpsean No. 2

History:

Oct 29, 1881 A Minute of Decision of the Indian Reserve Commission allocated the following for the use of the Lax Kw'alaams Band on Tsimpsean No. 2:

> *"All water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which the Williscroft sawmill is situated."*

Feb 26, 1884 An amendment to the October 29, 1881 Minute of Decision reduced the amount of reserve land constituting the Port Simpson No. 1 Reserve from 100 acres to 41 acres. The amendment did not impact the allocation prescribed in the 1881 decision, as described above.

Feb 29, 1884 The President of the Executive Council, on the recommendation of the Assistant Commissioner of Lands & Works, ordered that for Tsimpsean Reserve No. 2:

> *"All water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which the Williscroft sawmill is situated."*

Current Status:

There are currently no active licenses held on Tsimpsean Reserve No. 2.

Notes:

1. Tsimpsean Reserve No. 2 is divided into two portions. The north half of the reserve is for the use of the Lax Kw'alaams Band, whereas the south half is reserved for the use of the Metlakatla Band.

2. The Lax Kw'alaams Band's prior right to water allotted by the Indian Reserve Commission has not been formally recognized by the Province.

OTHER INFORMATION:

Additional Water Records:

The *Schedule of Indian Reserves in the Dominion, 1913,* is a document published by the federal government, recording each Band's water allocations up to 1913. It is believed that the records are a compilation of Minute of Decisions, Order-in-Councils, and perhaps other documents. However, as original copies of the documents cannot be located, the dates and information contained in them cannot be verified.

The allocation in the *Schedule of Indian Reserves in the Dominion* for the benefit of the Lax Kw'alaams Band on Tymgowzan 12, Ensheshese 13, Wilskaskammel 14, Toon 15, Lachmach 16, Spakels 17, Birnie Island 18, Finlayson Island 19 and Burnt Cliff Island 20 is as follows:

> *"The Tsimpsean Indians have the privilege of fishing on the Toon river for a distance of 2 miles up stream from the head of tidal waters."*

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section found that one well has been reported on Port Simpson Reserve No. 1. The extent to which the well is utilized at this time is unknown and information regarding yield was not reported. Further details have been appended to the report.

As provision of well information to the Groundwater Section is voluntary, this review should not be assumed to be complete.

Alternate Water Sources:

The proximity of Port Simpson Reserve No. 1 and Tsimpsean No. 2 (north part) to the village of Port Simpson presents the potential for water supply to the Lax Kw'alaams Reserves via connection to a municipal water system.

Water Protection Records:

The Water Protection Section has records of a dyke and of bank improvement work along 0.13 kilometers of Dodd Passage, within Port Simpson Reserve No. 1. The works are reportedly maintained by the Lax Kw'alaams Band.

Summary of Water Records

Lax Kw'Alaams First Nation

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	License PUC/MOD & OIC Allotments	Comments
All water flowing through the reserve	1881/10/29	Port Simpson #1 Tsimpsean #2		MOD			*"all water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which the Williscroft Sawmill is situated".*	no AGBC # given.
All water flowing through the reserve	1884/02/26	Port Simpson #1 Tsimpsean #2		MOD			*"all water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which the Williscroft Sawmill is situated".*	Amended MOD AGBC # 590470
All water flowing through the reserve	1884/02/29	Port Simpson #1 Tsimpsean #2		OIC			*"all water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which the Williscroft Sawmill is situated".*	AGBC # 523

Water Source	Priority Date	Reserve Name	File No.	Document Type	Status	Superceded By	License PUC/MOD & OIC Allotments	Comments
Stumaun Creek	1971/06/25	Port Simpson #1	0305586	CL 48683	Current		375,000 GAD/Waterworks	CL 48683: Qualifies the *Stumaun Creek Drainage Area* for designation as a 'Community Watershed' under provisions contained in the Forest Practices Code.
Stumaun Creek	1971/06/25	Port Simpson #1	0305586	CL 48684	Current		5.52 AF/Storage	CL 48684: Provides storage for CL 48683.
Stumaun Creek	1986/12/12	Port Simpson #1	6000343	CL 65481	Current		134 AF/Storage	CL 65481: Provides storage for CL 48683.

LEGEND:

License Types (Document Types)
CL: Conditional License
FL: Final License
Z: Application

Mechanisms for Allocation (Document Type)
OIC: Order-in-Council (as issued by the Lieutenant Governor in Council)
MOD: Minute of Decision (as recorded under the Indian Reserve Commission)
IRC: Indian Reserve Commission
AGBC: Attorney Generals Office of BC (followed by File #)

Allotment Units
GAD: Gallons a day
AF: Acre feet
CFS: Cubic feet per second

Minutes!!

Minutes of Decision

Simpsican Indians

No 1.

A Reserve of 100 acres (approximately) situated at Fort Simpson, to the East of and adjoining the Hudsons Bay Company's property.

Commencing at a point 50 chains due East of Lerais's post, and running North to the Sea coast; thence along the shore in a Westerly direction to the Hudsons Bay Companys claim; thence in a South westerly direction along the boundary of the said claim to the Eastern corner thereof; thence East to a point due South of the Starling point; and thence North to the place of commencement.

Village Island, containing 19 acres, and situated ½ mile West of this Reserve is also allotted to the Indians.

Water.

The Water flowing naturally through these Reserves is assigned to the use of the Indians.

A.Q.

Tsimpsean Indians.

No. 1.

A Reserve of 7,000 acres (approximately), situated on the Tsimpsean Peninsula, between Fort Simpson and the Southern end of Digby Island:

Commencing at a point on the sea coast being the Western corner post of the Hudson's Bay Company's claim, and running thence in a South easterly direction along the boundary of the said Claim to a point due South of Legoic's post; thence South to a point 40 chains South of Legoic's post; thence East 320 chains; thence South an approximate distance of 22 miles to a point due East of the Southern end of Digby Island, which will include part of Kai-en Island; thence West to Digby Island; and thence following along the Western shore of the said Digby Island and the coast line of the Tsimpsean Peninsula (including Pitt Island, Shrub Island, and the islands to the East of them) to the place of commencement.

The pre-emption claims of George Williscroft and of Joseph St. Armand, each containing 160 acres, and 2 acres on Mission Island held in trust by the Provincial Government for the Church Missionary Society, are not included in the above reserve.

Vol. i.

Tsimpsean Indians

Water.

All Water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which McWilliscroft's Saw-mill is situated.

No 3.

A Reserve of 6 acres, known as "Wil-na-skan-caud", and situated about 3 miles South-east of Metlakatlah on the Eastern shore of Kai-en Island.:

Commencing at a cedar marked "Indian Reserve", and running West 10 chains; thence South 10 chains; thence East to the sea coast; and thence in a Northerly direction along the sea shore to the place of commencement.

No 4.

A Reserve of 36 acres (approximately) known as "Sko-wok-skons", situated on the Western shore of the Tsimpsean Peninsula, East of Metlakatlah:

Commencing at a spruce marked Indian Reserve, and running East 20 chains; thence South 20 chains; thence West to the sea shore; and thence along the shore in a Northerly direction to the place of commencement.

— No 5

AGBC 590470

3984

Indian Reserve Commission
Victoria. B.C.
February 26th 1882.

Sir

I have the honor to forward herewith annexed Minutes of decision, and rough sketches of that portion of the land allotted by me for the use of the Kwimpean Indians at Fort Simpson, embraced in Reserve Nos 1 and 2.

The alterations were rendered necessary by the Local Government having in effect carried out the suggestion contained in my letter of 8th April 1882. to the Superintendent General of Indian Affairs, by granting the Hudson Bay Company an equivalent of about 24 acres on the East for that taken for the reserve on the west of their building.

I have the honor to be
Sir
Your obedient Servant

J. O'Reilly
I.R.C.

The Hon.ble
the Chief Commissioner
Lands & Works
Victoria B.C.

For original Deeds see 5061/82

Annexed Minute of a Decision

Songhees Indians.

No 1

A Reserve of forty one (41) acres approximately, situated at Port Simpson to the Southward of, and partly adjoining the Hudson Bay Company's property.

Commencing at an Indian post known as Aspas post, and running South seven (7) chains to the Southwest corner of the Hudson Bay Company's land; thence East five (5) chains; thence South thirty-three (33) chains; thence West five (5) chains; thence North six (6) chains; thence Northwest to the coast, an approximate distance of eighteen (18) chains, and thence following the coast in a Northerly direction to the place of commencement.

Village Island containing nineteen (19) acres more or less situated seven (7) chains Northwest of this reserve is also allotted to the Indians.

All water flowing naturally through this reserve is assigned to the use of the Indians.

Victoria. B.C.
Feb. 26th 1854

Amended Minute of Decision

Tsimpsean Indians

No 2.

1. Reserve of 70,400 acres approximately situated on the Tsimpsean Peninsula, between Fort Simpson and the southern end of Digby Island.

Commencing at the Northwest corner of Reserve No 1, and running Southeast (an approx distance of 18 chains) to one of the corner posts thereof; thence South 6 chains; thence East 320 chains; thence South an approx distance of 22 miles to a point due East of the southern end of Digby Island, which will include part of Maxon Island; thence West to Digby Island, and thence following along the western shore of the said Digby Island, and the coast line of the Tsimpsean peninsula (including Pile Island, Shrub Island, and the islands to the east of them) to the place of commencement.

The pre emption claims of Geo. Millecraft, and of Joseph Talmaud, each containing 160 acres, and 2 acres on Mission Point held in trust by the Provincial Government for the Church Missionary Society are not included in the above reserve.

All water flowing naturally through this reserve is assigned to the use of the Indians excepting the stream on which Mr Millecraft's saw mill is situated.

Victoria B.C.
Feb 26th 1884

AGBC #523

Amended Minute of Decision

Simpson Indians

No 1

A Reserve of forty one (41) Acres approximately situated at Fort Simpson to the Southwest of and partly adjoining the Hudson Bay Company's property.

Commencing at an Indian fort known as Legoics fort; and running South seven (7) Chains to the Southwest Corner of the Hudson Bay Company's land; Thence East five (5) Chains. Thence South thirty three (33) Chains. Thence West five (5) Chains; Thence North six (6) Chains; Thence Northwest to the Seacoast: an approximate distance of Eighteen (18) Chains. and thence following the Coast in a Northerly direction to the place of Commencement.

Village Island containing nineteen (19) Acres. and situated seven (7) Chains Northwest of this reserve is also allotted to the Indians

All Water flowing naturally through-

Through this reserve is assigned to the use of the Indians.

(Sig:) P O Reilly
I R C

Victoria BC
July 26th 1884

Amended Minute of Decision

Simpsean Indians

No 2

A Reserve of 70,400 acres approximately, situated on the Simpsean Peninsula. between Fort Simpson, and the Southern end of Digby Island.

Commencing at the Northwest corner of Reserve No 1, and running Southeast (an approximate distance of 18 Chains) to one of the corner posts thereof; thence South 6 Chains; thence East 320 Chains; thence South an approximate distance of 22 miles to a point due East of the Southern end of Digby Island, which will include part of Kaien Island; thence West to Digby Island, and thence following along the Western shore of the said Digby Island, and the coast line of the Simpsean peninsula (including Pike Island Shoal Island, and the Island to the east of them) to the place of commencement.

The pre-emption claims of George Williscroft, and of Joseph St Arnaud, each containing 160 acres, and 2 acres on Dixon Point -

Point Ellis is held in trust by the Provincial Government for the Church Missionary Society, are not included in the above reserve.

All water flowing naturally through this reserve is assigned to the use of the Indians, excepting the stream on which Mr. Willincroft's Saw Mill is situated.

(Sig:) P. O'Reilly
I.R.C.

Victoria B.C.
July 26th 1884

WATER RESOURCES SERVICE
WATER RIGHTS BRANCH

DEPARTMENT OF
ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

The Honourable Minister of Indian and Northern Affairs,
Port Simpson Band Council, of Box 992, Port Simpson, B. C. V0V 1H0

is/are hereby authorized to divert and use water as follows:—

(a) The source(s) of the water-supply is/are Stumaun Creek.

(b) The point(s) of diversion is/are located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 25th June, 1971.

(d) The purpose for which the water is to be used is waterworks.

(e) The maximum quantity of water which may be diverted is 375,000 gallons a day,

and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be used is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is
Port Simpson Indian Reserve #1, (Port Simpson) Range 5, Coast District.

(h) The works authorized to be constructed are diversion structure, pipe and tank,

which shall be located approximately as shown on the attached plan.

(i) The construction of the said works shall be commenced on or before the 31st day of January, 1978, and shall be completed and the water beneficially used on or before the 31st day of December, 1980.

H. D. DeBeck,
Comptroller of Water Rights.

File No. 0305586 Date issued: August 2nd, 1977 Conditional Licence No. 48683

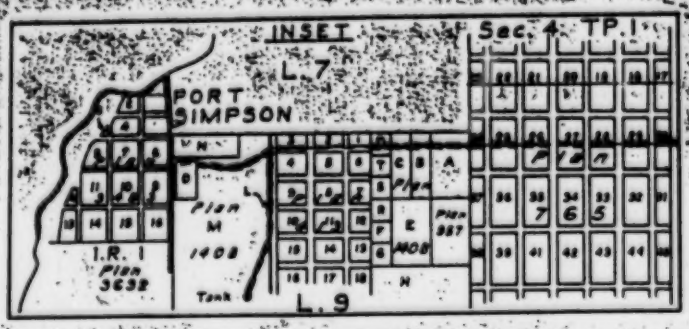
ENTERED ON
Ref. No. 1034/NE (3d)
By P. LW

British Columbia

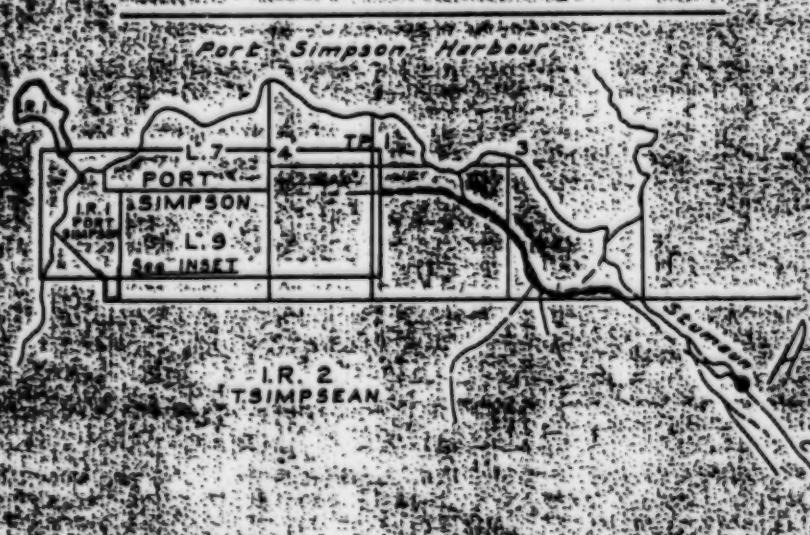
PRINCE RUPERT WATER DISTRICT

RANGE 5 COAST DISTRICT

Scale: 40 Chains to 1 Inch



Scale: 20 Chains to 1 Inch



LEGEND

Point of Diversion ●

Ref. Map 103 I/NE (N-4) 103 J .059

Pipe

Right of Way

The boundaries of the land to which this licence is appurtenant are shown thus:

Signature

Dated 2nd Aug 1977

CL 48683

File 0305586

R/W Permit 11130

Terrace Precinct

For Storage see C.L. 48684

WATER RESOURCES SERVICE
WATER RIGHTS BRANCH

DEPARTMENT OF
ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

The Honourable Minister of Indian and Northern Affairs,
Port Simpson Band Council, of Box 992, Port Simpson, B. C. V0V 1H0

is/are hereby authorized to store water as follows:—

(a) The source(s) of the water-supply is/are Stumaun Creek and the reservoir is the creek.

(b) The point(s) of storage is/are located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 25th June, 1971.

(d) The purpose for which the water is to be used is as set out in Conditional Water Licence 48683.

(e) The maximum quantity of water which may be stored is 5.52 acre feet per annum, and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(f) The period of the year during which the water may be stored is the whole year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is as set out in Conditional Water Licence 48683.

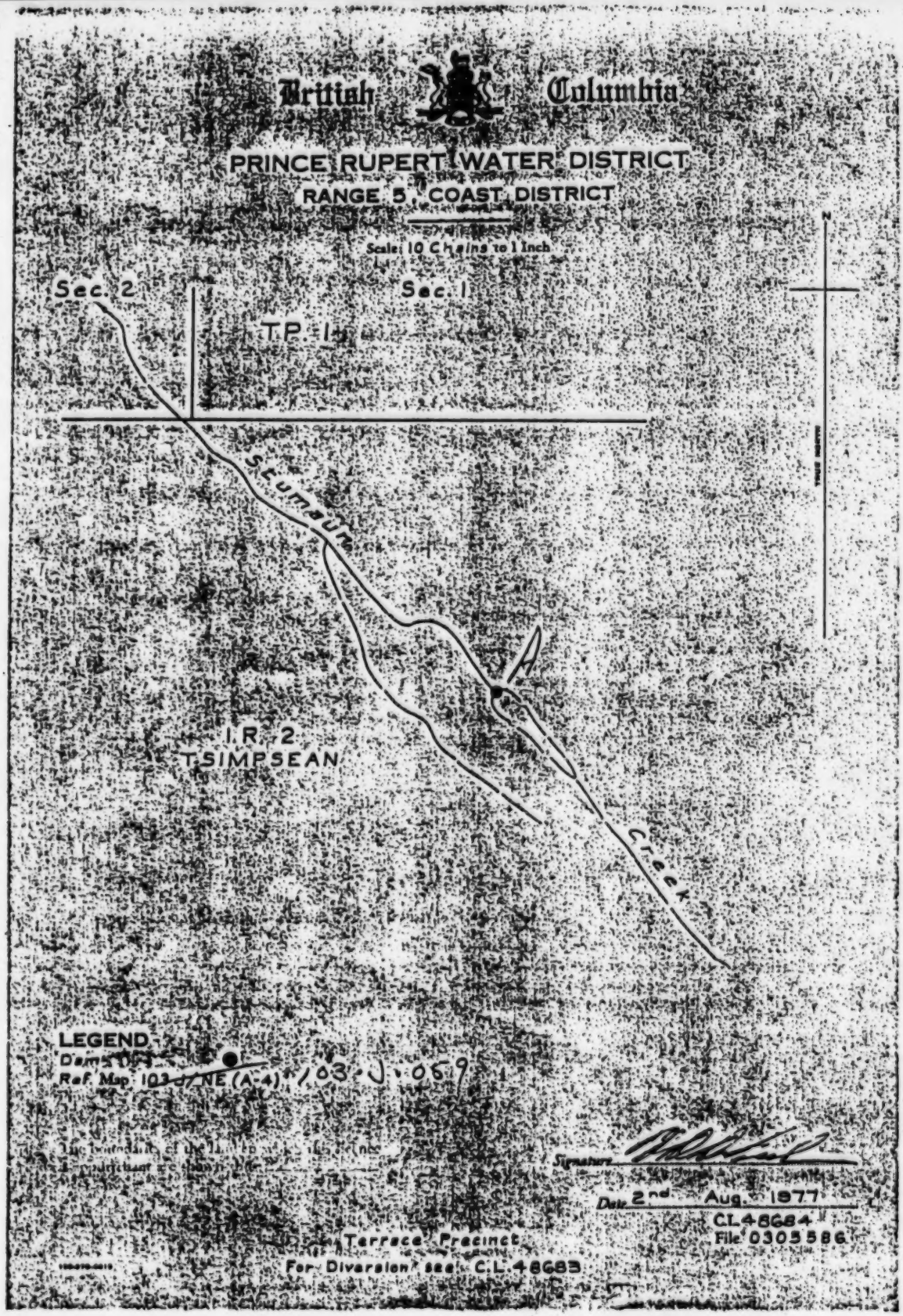
(h) The works authorized to be constructed are dam, which shall be located approximately as shown on the attached plan.

(i) The construction of the said works shall be commenced on or before the 31st day of January, 1978, and shall be completed and the water beneficially used on or before the 31st day of December, 1980.

H. D. DeBeck,
Comptroller of Water Rights.

File No. 0305586 Date issued: August 2nd, 1977 Conditional Licence No. 48684

ENTERED ON
Ref Map No. 103J/NE (9d)
By


British Columbia
PRINCE RUPERT WATER DISTRICT
RANGE 5, COAST DISTRICT
Scale: 10 Chains to 1 Inch
Sec. 2
Sec. 1
TP. 1
Scumaun
I.R. 2
T SIMPSEAN
Creek
LEGEND
Dams
Ref. Map 103 J/NE (A-4)
103 J 059
Signature
Date 2nd Aug. 1977
C.L. 48684
File 0305586
Terrace Precinct
For Diversion see C.L. 48683

WATER MANAGEMENT BRANCH

MINISTRY OF ENVIRONMENT

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

The Honourable Minister of Indian and Northern Affairs (Lax Kw' alaams Band Council) of P.O. Box 1000, 800 Burrard Street, Vancouver, B.C., V6Z 2J3

is hereby authorized to store water as follows:

(a) The stream on which the rights are granted is Stumaun Creek, and the reservoir is on the creek.

(b) The point of storage is located as shown on the attached plan.

(c) The date from which this licence shall have precedence is 12th December, 1986.

(d) The purpose for which this licence is issued is storage.

(e) The maximum quantity of water which may be held in storage is 134 acre feet and the maximum quantity of water which may be used to fill the reservoir is 134 acre feet per annum.

(f) The reservoir may be filled and the water released from storage at any time of the year.

(g) The land upon which the water is to be used and to which this licence is appurtenant is Port Simpson I.R. #1, Range 5, Coast District, as set out in Conditional Water Licence 48683.

(h) The works authorized to be constructed are dam, reservoir and spillway, which shall be located approximately as shown on the attached plan.

(i) The construction of the said works shall not be commenced until plans prepared by an Engineer registered in British Columbia have been submitted to and written leave to commence granted by an Engineer under the Water Act. The construction of the said works shall be completed and the right to store water beneficially exercised prior to the 31st day of December, 1990.

(j) The rights granted hereunder are exercisable only during such times as the works authorized under Conditional Water Licence No. 48683 or any licence issued in substitution thereof are being maintained and operated to the satisfaction of an Engineer under the Water Act.

D.W. Roberts, P. Eng.
Regional Water Manager
Northern Region

File No. 6000343 Date issued: JUL 15 1987 Conditional Licence 65481

Province of British Columbia

WATER DISTRICT : PRINCE RUPERT
PRECINCT : TERRACE
LAND DISTRICT : R.5,COAST

LEGEND

Scale : 1:4 000
Dam : ●
Map Number : WR 103-J-059

Signature D.K. Robertson
Date JUL 15 1987

C.L. 65481
File 6000343

For Diversion See C.L. 48683

PROVINCE OF
BRITISH COLUMBIA

DEPARTMENT OF ENVIRONMENT

PERMIT UNDER THE WATER ACT AUTHORIZING THE OCCUPATION OF CROWN LAND

The Honourable Minister of Indian and Northern Affairs, Port Simpson Band Council, of Box 992, Port Simpson, B.C. V0V 1H0

the holder(s) of Conditional/~~Final~~ Water Licence(s) 48683 authorizing U.K.
the diversion of water from Stumaun Creek,
is/are hereby

authorized to occupy Crown land by constructing, maintaining, and operating thereon the works authorized under the said water licence and any licences which may be issued in substitution thereof.

(*a*) The Crown land which is authorized to be occupied under this permit is a portion of (1) South ½ Section 3, (2) Blocks 24 to 30 inclusive of Section 4, Township 1, Plan 765, (3) Blocks A, B, C and D, Plan 957, and Blocks L and M, Plan 1408 of Lot 9, Township 1, Range 5, Coast District,

the location of which is shown approximately on the plan attached to the said water licence.

(*b*) The approximate dimensions of the Crown land authorized to be occupied under this permit are 11100 feet in length and 15 feet in width, having an area of 3.8 acres.

(*c*) Subject to the payment of royalty, stumpage, and other compensation, and the obtaining of a licence to cut timber as provided under Condition 5, the permittee may cut and remove from the said land any timber, the removal of which is necessary to permit construction and maintenance of the said works.

(*d*) The annual rental for this permit is $ 4.00 , which is subject to review and revision at any time at the discretion of the Crown.

(*e*) This permit is appurtenant to the land, mine, or undertaking to which the aforesaid water licence is appurtenant.

(*f*) The conditions relative to the rights granted under this permit are printed on the back of this form.

D. R. Bedal

[redacted] Deputy Minister of Environment
Associate Lands Service

File No. 0305586

Ref. Map 103J/NE(A-4)

W.R. Map ----

Date issued: 2nd August, 1977 Permit No. 11136

W.R.B. 13-6

CONDITIONS RELATIVE TO THE RIGHTS GRANTED UNDER THIS PERMIT

1. This permit is issued under the *Water Act*, and the rights hereby granted are subject at all times to the provisions of that Act and all Acts passed in amendment or substitution thereof and to all regulations from time to time made under any such Act.

2. There is reserved to the Crown the right to grant to other persons permits to occupy the land affected by this permit without compensation to the permittee or his successors in title.

3. In the event of any dispute arising at any time between the permittee and any owner of land adjacent to the land affected by this permit with respect to the area or boundaries of the land so affected, the licensee shall at his own expense, when so directed by the Deputy Minister of Environment, have the said land surveyed by a duly qualified surveyor, and shall likewise file with the Department of Environment at Victoria, British Columbia, a plan showing the result of the survey.

4. This permit and the rights granted hereunder are subject always to compliance by the permittee with the terms of his water licence, and if the rights granted under the said licence should at any time be suspended or terminated, the rights granted under this permit are thereupon likewise suspended or terminated.

5. The amount of stumpage, royalty, and (or) compensation payable to the Crown by the permittee in respect of trees, including merchantable or young growth, cut, removed, damaged, or destroyed by the permittee, shall be the sum or sums fixed by the Forest Service of the Province of British Columbia. Prior to the cutting, destruction, or flooding of any timber, the permittee must apply for and obtain a licence to cut timber from the District Forester under the provisions of section 24 of the *Forest Act*.

Stream Register Report Water Licence Information System

Report Requested By : HARRAMS
Date Report Requested : 1996/07/02 11:08
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : 8016065 - 102.J.059 D
END POINT : 8021223 - Scammon Creek on Salt Water

Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	PUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
Source			NR Map	POD RED POD Comments					Proc	
1971/06/25	C048683	0305586	PORT SIMPSON IR 01 R 5 COAST DIST	LAX-KW-ALAANS INDIAN BAND 986-674-7770 206 SHASHAAK ST PORT SIMPSON BC V0V1H0	WHSDT	375,000.00 GD	Jan 01	Dec 31	STOR AT C 48684 & C 65481 STUMAUM CR	
Stumaum Creek			NR103.J.059	A N					25C PR - TERRACE	
1971/06/25	C048684	0305586	STOR FOR C 48683 STUMAUM CR	LAX-KW-ALAANS INDIAN BAND 986-674-7770 206 SHASHAAK ST PORT SIMPSON BC V0V1H0	STOHP	5.52 AF	Jan 01	Dec 31	STOR IN CR	
Stumaum Creek			NR103.J.059	A N					25C PR - TERRACE	
1996/12/13	C065481	6000343	STOR FOR C 48683 STUMAUM CR	LAX-KW-ALAANS INDIAN BAND 986-674-7770 206 SHASHAAK ST PORT SIMPSON BC V0V1H0	STOHP	136.00 AF	Jan 01	Dec 31	STOR IN CR	
Stumaum Creek			NR103.J.059	B N					25C PR - TERRACE	

---------- Total of 3 Licences Reported ----------

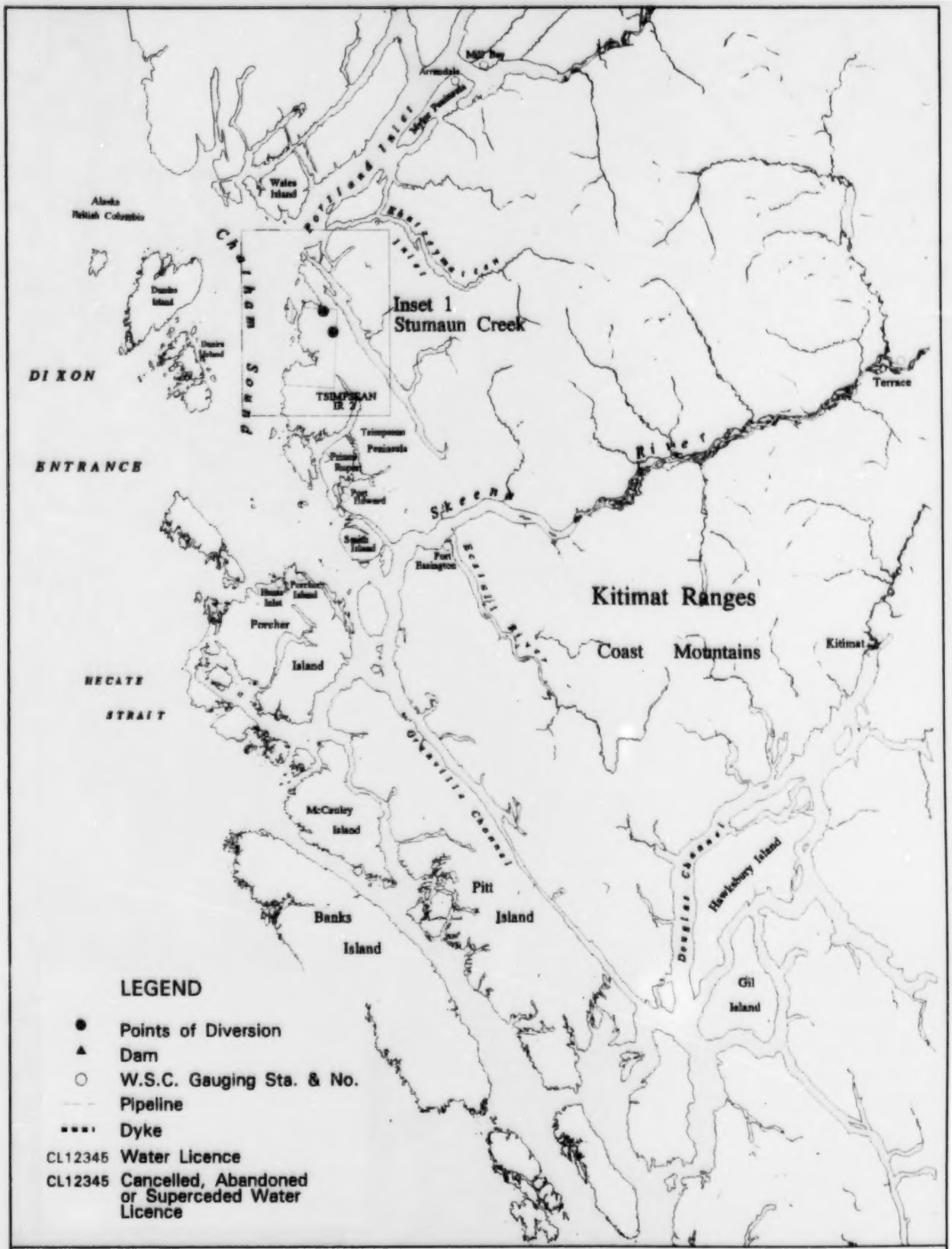
NCWR Map Area	Well No.	Well Tag No.	Lot No.	Plan No.	Blk No.	TP	RC	RG	D.L.	I	X	Y	Old Well No.	L.D.	Site Address	Date Constructed (day)	Well Depth (ft.)	Well Diam. (in.)	Drill Constr No.	Const. Method	Well Yield	Yld. Unc.	Depth to Water (ft.)	Depth to Bedrk (ft.)	Aquif Litho	Screen Interval (ft.)	G.W. Rpt	Chem Lab	Chem Fld	Chem Site No.
1052.001.1.3.2	001	0000000369975	2						876	00	00	00	000	45		01-01-1970	9.0	0.0	UNK	OTH			7	UNK	UNC				Y	
1052.001.1.3.3	002	0000000369996	4						876	00	00	00	000	45		01-01-1970	14.0	0.0	UNK	OTH			12	UNK	UNC				Y	
1052.001.4.2.4	001	0000000951548							230	00	00	00	000	45	AGATE BEACH CAMPSITE	01-01-1983	40.0	6.0	044	DRI			UNK	UNK	UNC	31-35				
1052.019.4.4.4	001	0000000290454					5		7605	00	00	00	000	14	PORT EDWARD	08-05-1967	40.0	10.0	168	DRI			UNK	41	UNC					
1052.019.4.4.4	002	0000000219313							117	00	00	00	000	14	PORT EDWARD	09-11-1967	100.0	6.0	168	DRI			UNK	95	UNC					
1052.029.4.3.3	001	0000000273030							261	00	00	00	000	14	OLIVER LAKE	01-12-1949	125.0	8.0	130	DRI	6.0	GPM	8	21	RED					
1052.030.1.1.4	001	0000000444420								01	07	28	001	14	DIANA LN	01-12-1980	83.0	6.0	168	DRI	20.0	GPM	13	13	RED					
1052.030.1.4.1	001	0000000273039							972	01	07	34	001	14		01-12-1949	112.0	6.0	130	DRI	15.0	GPM	4	29	RED					
1052.030.2.4.3	001	0000000951542								00	00	00	000	14	METLAKATLA INDIAN RE	10-03-1983	117.0	6.5	481	DRI	1.0	GPM	UNK	5	RED		Y			
1052.030.2.4.3	001	0000000951543								00	00	00	000	14	METLAKATLA INDIAN RE	10-03-1983	21.1	7.5	481	DRI	20.0	GPM	4	17	UNC					
1052.030.2.4.3	002	0000000951649								00	00	00	000	14	[redacted]	17-02-1983	30.0	7.5	481	DRI			7	30	UNC					
1052.030.2.4.3	003	0000000951650								00	00	00	000	14	METLAKATLA INDIAN RE	10-03-1983	10.0	4.5	481	DRI			3	UNK	UNC					
1052.030.2.4.3	004	0000000951922								00	00	00	000	14																

---------- END OF REPORT WELL4000 ----------

A REF. NO.	B RESERVE NAME & NO.	C BAND NAME	D WATER BODY	E TYPE OF WORKS	F LENGTH DYKE (KM)	G LENGTH D.P. (KM)	H CROWN WIDTH (M)	I APPROX. WATER SLOPE	J PROT'D. AREA (HA)	K DATE LAST CONST'D.	L CONST. FUNDED BY	M INSP-ECTED BY	N MAINTAINED BY
1	ASHNOLA 10	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & D.P	0.40	1.20	?	?	40	1986	ARDSA	1.of D.	BAND
2	ATZUPCES 15	SQUAMISH	SQUAMISH R.	DYKE	0.80	N/A	3.0	2:1	15	1977	B.C./MUN.	1.of D.	SQUAMISH DIST.
3	BARNSTON ISLAND 3	KATZIE	FRASER R.	DYKE	0.67	N/A	3.0	2:1	40.5	1950	FYDD	1.of D.	BRSH. I.D. DIST.
4	BELLA COOLA 1	BELLA COOLA	THORSER CR.	DYKE	0.02	0.00	4.0	2:1	?	1986	BAND	?	BAND
5	BELLA COOLA 1	BELLA COOLA	TASTSQUAH CR.	DYKE & D.P	0.15	0.10	?	?	?	1974	BAND	?	BAND
6	CAPE MUDGE	CAPE MUDGE	SEA	SEAWALL	N/A	?	N/A	?	?	?	?	?	BAND
7	CHAWATHIL	HOPE	FRASER R.	D.P.	N/A	0.30	N/A	?	?	?	CPR	?	CPR
8	CHEAM 1	CHEAM	FRASER R.	DYKE	0.02	0.76	3.6	2.5:1	55.6	1974	FRJP/CRB	1.OF D.	CHILLIWACK DIST.
9	CHEHALIS 5	CHEHALIS	CHEHALIS R.	DYKE	0.44	N/A	4.0	2:1	861	1990	BAND	?	BAND
10	COQUITLAM 2	COQUITLAM	COQUITLAM R.	DYKE	0.90	N/A	?	?	70	?	BAND	?	BAND
11	COWICHAN 1	COWICHAN	COWICHAN/KOKSILAH RS.	DYKE	5.74	N/A	3.6	2:1	650	1985	ARDSA	1.of D.	BAND
12	DEADMAN'S CREEK	SKEETCHESTN	DEADMAN CR.	D.P.	N/A	?	N/A	?	600	1948	BAND	?	BAND
13	EAST SAANICH 2	TSAWOUT	SEA	SEAWALL	N/A	0.40	N/A	1.5:1	?	1989	BAND	?	BAND
14	ENDERBY 2	ENDERBY	SHUSWAP R./FORTUNE CR.	DYKE	?	N/A	?	?	340	?	BAND	?	BAND
15	FORT RUPERT 1	SYAKIPTL	SEA	SEAWALL	N/A	0.99	N/A	1.5:1	340	1974	BAND	?	BAND
16	GITANMAAX 1	GITANMAAX	SKEENA R.	GROYNE	N/A	?	N/A	N/A	?	?	?	?	BAND
17	GORDON RIVER 2	PACHENAHT	SAN JUAN R.	D.P.	N/A	0.50	N/A	2:1	?	1991*	BAND	?	BAND
18	HALFWAY 168	HALFWAY	HALFWAY R.	D.P.	N/A	0.10	N/A	?	?	1991*	BAND	?	BAND
19	KAMLOOPS	KAMLOOPS	SOUTH THOMPSON R.	DYKE	1.37	N/A	?	?	?	1972	B.C.-MYTS.	?	BAND
20	KATIT 1	OPEEKANO	UNKNOWN	DYKE	?	N/A	?	?	?	1990	BAND	?	BAND
21	KATZIE 1	KATZIE	FRASER R.	DYKE	0.60	N/A	3.0	2.5:1	31.5	1984	FRJP	1.of D.	PITT M'BOYS DIST.
22	KINCOLITH 14	KINCOLITH	NASS R.	CAUSEWAY	N/A	0.70	4.0	1.5:1	?	1990	BAND	?	BAND
23	KITAMAAT 2	KITAMAAT	HATHA R.	DYKE	0.55	N/A	3.5	2:1	16	1988	BAND.	?	BAND
24	KITWANGAK 1	GITWANGAK	SKEENA	D.P.	N/A	?	N/A	?	93	?	CNR	?	CNR
25	KITWILLOKSILT 7	GITWINKSIHLKW	UNNAMED	CHAN. IMPS	N/A	N/A	N/A	N/A	52	1987	BAND	?	BAND
26	KOLEXPO 4	HARTLEY BAY	SEA	SEAWALL	N/A	0.22	N/A	1.5:1	?	1977	BAND	?	BAND
27	LACHKALTSAP 3	LAKALZAP	GREENVILLE CR.	DYKE	1.40	N/A	4.0	1.5:1	600	1990	BAND/BC	?	BAND
28	LAKAHAMEEN 11	LAKAHMEN	NICOMEN SLOUGH	DYKE	0.90	N/A	?	?	23	1949	FYDD	1.of D.	N.NICOMEN I.DIST.
29	LOUIS CREEK 4	NORTH THOMPSON	N.THOMPSON/LOUIS CR.	D.P.	N/A	?	N/A	?	0.6	1984	BAND	?	BAND
30	MASSET 1	MASSET	SEA	SEAWALL	N/A	0.22	N/A	VERT.	?	1983	BAND	?	BAND
31	MATSQUI MAIN 2	MATSQUI	FRASER R.	DYKE	1.10	N/A	3.6	2.5:1	41.3	1974	FRJP	1.of D.	DIST.OF MATSQUI
32	MCMILLAN ISLAND 16	LANGLEY	FRASER R.	D.P.	N/A	0.46	N/A	?	181	?	BAND	?	BAND
33	MOUNT CURRIE 1,8,9,10	MOUNT CURRIE	BIRKENHEAD	DYKE	0.70	N/A	3.0	2:1	442	PRE-70	?	1.of D.	PEMBERTON D.DIST.
34	MUSQUEAM 2	MUSQUEAM	SEA/R.ARM FRASER R.	DYKE & D.P	0.55	0.40	?	?	27.3	?	BAND	?	BAND
35	NANAIMO RIVER 3	NANAIMO RIVER	NANAIMO R./SEA	DYKE	2.20	N/A	?	?	92	1934	BAND	?	BAND
36	NEQUATQUE 1	ANDERSON LAKE	GATES R./ANDERSON L.	DYKE	?	N/A	?	?	9	1966	MYTS/BCR	?	?
37	NESUCH 3	MOUNT CURRIE	LILLOOET R.	DYKE	0.20	N/A	3.0	2.5:1	295	1987	B.C./D.D.	1.of D.	PEMBERTON D. DIST.
38	NORTH THOMPSON 1	NORTH THOMPSON	NORTH THOMPSON R.	D.P.	N/A	0.50	N/A	?	250	?	BAND	?	BAND
39	PAPEKVATOMIK 4	LAKAHAMEEN	FRASER R.	DYKE	0.80	N/A	3.0	2.5:1	18.4	1990	FRJP	1.of D.	NICOMEN IS.I.DIST.
40	PENTICTON	PENTICTON	OKANAGAN R/SHINGLE CR.	DYKE	?	N/A	?	?	930	1953	B.C./CAN.	1.of D.	PROVINCE
41	PENTLEDGE 2	COMOX	PUNTLEDGE R.	D.P.	N/A	0.26	N/A	1.5:1	?	1972	BAND	?	BAND
42	PETERS 1	PETERS	FRASER	DYKE	0.25	N/A	?	?	125	1988	BAND	?	BAND
43	PETERS 2	PETERS	FRASER R.	D.P.	N/A	1.07	N/A	2:1	48	1988	BAND	?	BAND
44	PINCHIE 2	TL'AZT'EN NATION	STUART L./PINCHI R.	D.P.	N/A	0.10	N/A	2.5:1	30	1988	BAND	?	BAND
45	PORT SIMPSON 1	LAX KW'ALAAMS	SEA	CAUSEWAY	N/A	0.13	?	1:1	?	1990	BAND	?	BAND
46	QUAAOUT 1	LITTLE SHUSWAP	LITTLE R./ SHUSWAP L.	D.P.	N/A	0.13	N/A	?	?	1975	BAND	?	BAND
47	RUBY CREEK 2	SKAWAHLOOK	RUBY CREEK	DYKE	?	N/A	?	?	1.2	?	BAND	?	BAND
48	SALMON RIVER 1	SPALLUMCHEEN	SALMON R.	D.P.	N/A	0.15	N/A	1.5:1	?	1988	BAND	?	BAND
49	SCOWLITZ 1	SCOWLITZ 1	FRASER R./HARRISON R.	DYKE	2.90	N/A	3.6	2.5:1	53	1972	FRJP	1.of D.	KENT DIST.
50	SEABIRD ISLAND	SEABIRD ISLAND	FRASER R.	D.P.	N/A	1.90	N/A	2:1	156	1976/82	FRJP/BAND	1.of D.	KENT DIST./BAND
51	SEAICHEM 10	SQUAMISH	SQUAMISH R.	DYKE	0.60	N/A	3.0	2.5:1	4	1987	B.C./MUN.	1.of D.	SQUAMISH DIST.
52	SECHELT 2	SECHELT	SEA	D.P.	N/A	0.85	N/A	1.5:1	?	1984	BAND	?	BAND
53	SEYMOUR CREEK 2	SQUAMISH	SEYMOUR CR.	D.P.	N/A	?	N/A	?	?	?	LESEE	?	?
54	SKAWALOOK 1	SKAWALOOK	FRASER R.	D.P.	N/A	0.12	N/A	?	?	?	?	?	BAND
55	SKWAHA 10	LAKAHAMEN	NICOMEN SLOUGH	DYKE	2.10	N/A	3.0	2:1	23	1949	FYDD	1.of D.	NICOMEN IS.I.DIST
56	SKEMCOSKUMKIN 1,7,9	LOWER SIMILKAMEEN	SIMILKAMEEN R.	DYKE & D.P	7.50	1.50	3.0	2:1	1100	1988	ARDSA	1.of D.	BAND
57	SKIDEGATE 1	SKIDEGATE	SEA	D.P.	N/A	0.10	N/A	?	?	1985	BAND	?	BAND
58	SKWAHLAPAY 10	SKWAH	FRASER R.	DYKE	4.20	N/A	3.0	2.5:1	400	1941	FYDD	1.of D.	NICOMEN IS.I.DIST
59	SKWALI 3	SKWAH	FRASER R.	DYKE	2.50	N/A	3.0	2:1	4	1950	FYDD	1.of D.	CHILLIWACK DIST.
60	SKWAY 4,5	SKWAH	FRASER R.	DYKE	0	N/A	0	0	0	1950	FYDD	1.OF D.	?
61	SLOSH 1	SETON LAKE	SETON R./SETON L.	D.P.	N/A	0.00	N/A	1.5-2:1	?	1990	BAND	?	?
62	SOOWAHLIE 14	SOOWAHLIE	CHILLIWACK R.	DYKE	2.01	N/A	3.7	2:1	?	1990	BAND	?	BAND
63	SWITZEMALPH 4	ADAMS LAKE	SHUSWAP L./STYPHON CR.	DYKE	?	N/A	?	?	?	?	LESEE	?	?
64	TSAWWASSEN	TSAWWASSEN	SEA	DYKE	2.50	N/A	3.0	2.5:1	273	1985	FRJP	1.of D.	CORP. OF DELTA
65	TSEATAH 2	CHEAM	FRASER R.	DYKE & D.P	2.00	0.70	3.0	2:1	97	1973	FRJP/BAND	1.of D.	KENT DIST./BAND
66	TSOLOQUATE 4	GVA-SALA-MAYAS	SEA/TSOLOQUATE R.	D.P.	N/A	0.20	N/A	?	?	1971	BAND	?	BAND
67	VAIVAHUM 14	SQUAMISH	SQUAMISH R.	DYKE	0	N/A	0	0	0	1977	B.C./MUN.	1.OF D.	SQUAMISH DIST.
68	WHISPERING PINES 4	WHISPERING PINES	NORTH THOMPSON R.	DYKE	?	N/A	?	?	?	PRE-72	PREV.OWNER	?	?
69	ZAITSCHULLACH 9	LAKAHAMEEN	NICOMEN SLOUGH	DYKE	0.70	N/A	3.0	2:1	20	1949	FYDD	1.of D.	NICOMEN IS.I.DIST
				TOTALS	57.83	13.17							

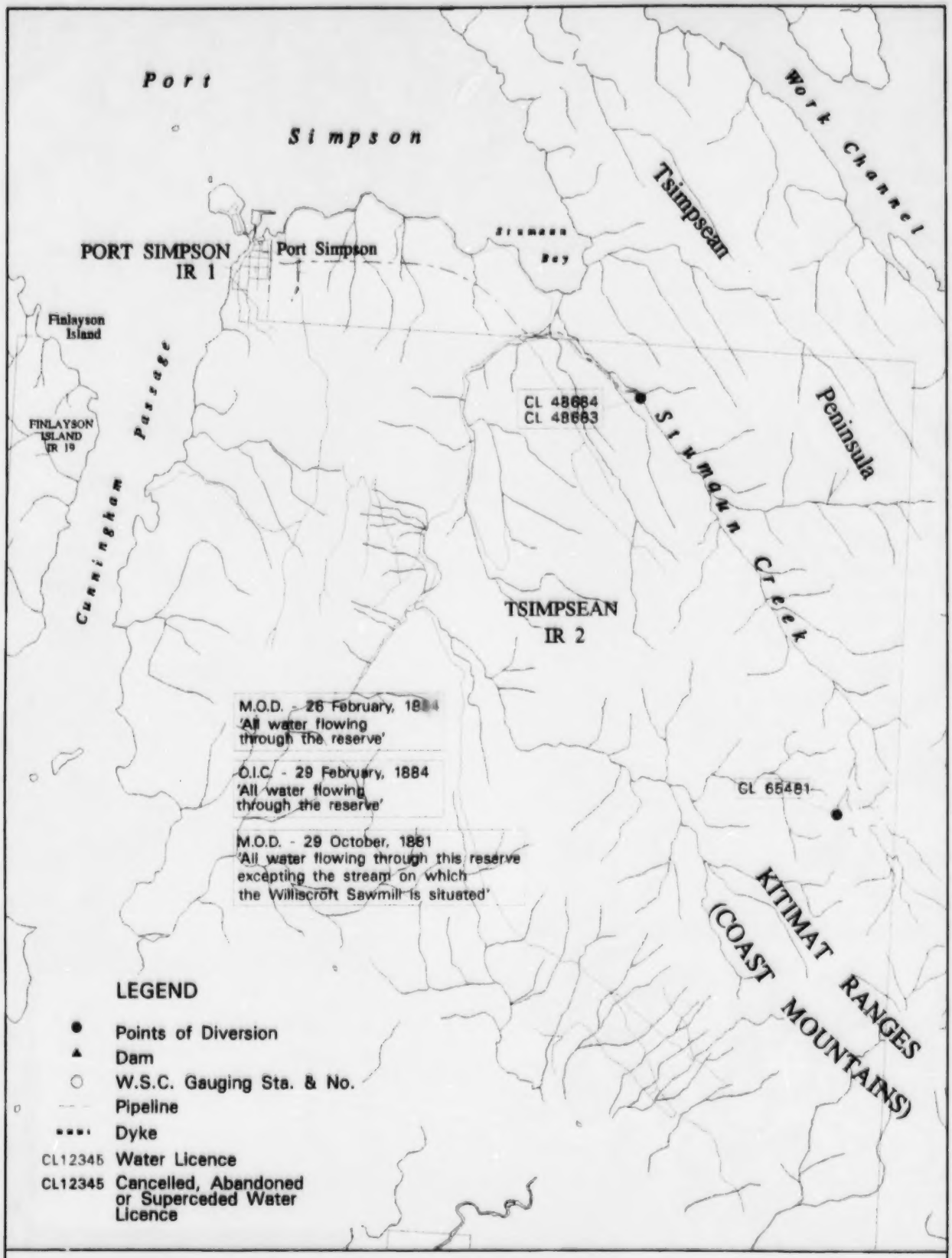
DYKE CATEGORIES: A - 1:200 yr. Flood + 0.6 M Freeboard
B - 1:200 yr. Flood, no Freeboard
C - Less than 1:200 yr. Flood or unknown

0 -See Column T COMMENTS



LEGEND

- Points of Diversion
- Dam
- W.S.C. Gauging Sta. & No.
- Pipeline
- Dyke
- CL12345 Water Licence
- CL12345 Cancelled, Abandoned or Superceded Water Licence



Stumaun Creek

Scale 1:50,000

Ministry of Environment, Lands & Parks Date: December 01, 1997 Environment & Lands Division